

CHAPTER 205
SB 133-FN - FINAL VERSION

03/18/2021 0779s
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2021 SESSION

21-0964
05/04

SENATE BILL ***133-FN***

AN ACT: adopting omnibus legislation relative to occupational licensure
SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. Licensing places of assembly.

II. Repealing the emergency medical services personnel licensure interstate compact.

III. Hearings at the board of nursing.

IV. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

V. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

VI. Temporary licensure of certain licensed nursing assistants.

VII. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

VIII. Schools for barbering, cosmetology, and esthetics.

IX. Telemedicine provided by out-of-state psychologists.

X. Sanitary production and distribution of food.

XI. Minimum qualifications for certification as a child care associate teacher.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~in brackets and struckthrough.~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to occupational licensure.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 205:1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

4 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
5 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
6 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
7 Rock. 6.

8 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
9 sponsored by Sen. Ward, Prime/Dist 8.

10 Part IV: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact
11 and the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
12 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

13 Part V: LSR 21-0899, relative to the authority of the office of professional licensure and
14 certification for administration, rulemaking, and enforcement of investigations, hearings, and
15 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
16 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
17 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
18 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

19 Part VI: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
20 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
21 Coos 1.

22 Part VII: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
23 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
24 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

25 Part VIII: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
26 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.

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Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep. McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

Part IX: LSR 21-0277, relative to telemedicine provided by out-of-state psychologists, sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss, Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20; Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

Part X: LSR 21-1049, establishing program rules within the department of health and human services for sanitary production and distribution of food, sponsored by Sen. Giuda, Prime/Dist 2; Sen. Gannon, Dist 23.

Part XI: relative to minimum qualifications for certification as a child care associate teacher.
205:2 Legislation Enacted. The general court hereby enacts the following legislation:

PART I

Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

1 Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as follows:

II. "Licensing agency" shall mean the chief of the fire department, the firewards or engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the case may be, ***or the state fire marshal, as he or she deems necessary, in consultation with the local licensing agency, if any.***

2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

155:18 License Required. No person shall own or operate a place of assembly within this state unless licensed so to do by the licensing agency of the ***state***, city, town, or village district where said place of assembly is located, including assemblies occurring on state waters or ice formed on state waters, in accordance with the regulations herein promulgated. In the application of this act to existing places of assembly the licensing agency may modify such of its provisions as would require structural changes if in his or her opinion adequate safety may be obtained otherwise and provided that a permanent record is kept of such modifications and the reasons therefor.

3 Effective Date. Part I of this act shall take effect 60 days after its passage.

PART II

Repealing the emergency medical services personnel licensure interstate compact.

1 Repeal. The following are repealed:

I. RSA 153-A:36 and the subdivision heading preceding RSA 153-A:36, relative to the emergency medical services personnel licensure interstate compact.

II. RSA 153-A:20, XXIV, relative to rulemaking by the department of safety regarding implementation of the compact.

2 Effective Date. Part II of this act shall take effect 60 days after its passage.

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PART III

Relative to hearings of the New Hampshire board of nursing.

1 Board of Nursing; Adjudicative Hearings. Amend 326-B:38, VIII to read as follows:

VIII. The board may hold adjudicative hearings concerning allegations of misconduct or other matters within the scope of this chapter. Such hearings shall be public proceedings. Any member of the board [~~other than the public members~~], or any other qualified person appointed by the board, shall have authority to preside at such a hearing and to issue oaths or affirmations to witnesses.

2 Effective Date. Part III of this act shall take effect upon its passage.

PART IV

Adopting the Audiology and Speech-Language Pathology Compact
and the Occupational Therapy Licensure Compact.

1 New Paragraph; Office of Professional Licensure and Certification; Fees; Financing of Interstate Compacts. Amend RSA 310-A:1-e by inserting after paragraph II the following new paragraph:

III. The office of professional licensure and certification shall be responsible for the financing of any interstate compact joined by the state that affects a profession governed by a board listed in 310-A:1-a. Such financing shall be from money deposited in the office of professional licensure and certification fund.

2 New Section; Speech-Language Pathology Practice; Audiology and Speech-Language Pathology Compact. Amend RSA 326-F by inserting after section 16 the following new section:

326-F:17 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions of the Audiology and Speech-Language Pathology Compact as follows:

SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

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1 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
2 language pathology practice;

3 4. Support spouses of relocating active duty military personnel;

4 5. Enhance the exchange of licensure, investigative and disciplinary information between
5 member states;

6 6. Allow a remote state to hold a provider of services with a compact privilege in that state
7 accountable to that state's practice standards; and

8 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
9 speech-language pathology services.

10 SECTION 2. DEFINITIONS

11 As used in this Compact, and except as otherwise provided, the following definitions shall apply:

12 A. "Active duty military" means full-time duty status in the active uniformed service of the
13 United States, including members of the National Guard and Reserve on active duty orders
14 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

15 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
16 state's laws which is imposed by a licensing board or other authority against an audiologist or
17 speech-language pathologist, including actions against an individual's license or privilege to practice
18 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
19 practice.

20 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
21 or speech-language pathology licensing board to address impaired practitioners.

22 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

23 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
24 member state's statutes and rules.

25 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
26 the national administrative body whose membership consists of all states that have enacted the
27 Compact.

28 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
29 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
30 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

31 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
32 from another member state to practice as an audiologist or speech-language pathologist in the
33 remote state under its laws and rules. The practice of audiology or speech-language pathology
34 occurs in the member state where the patient/client/student is located at the time of the
35 patient/client/student encounter.

36 I. "Current significant investigative information" means investigative information that a
37 licensing board, after an inquiry or investigation that includes notification and an opportunity for

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1 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
2 believe is not groundless and, if proved true, would indicate more than a minor infraction.

3 J. "Data system" means a repository of information about licensees, including, but not limited
4 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

5 K. "Encumbered license" means a license in which an adverse action restricts the practice of
6 audiology or speech-language pathology by the licensee and said adverse action has been reported to
7 the National Practitioners Data Bank (NPDB).

8 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
9 within the powers granted to them by, the Commission.

10 M. "Home state" means the member state that is the licensee's primary state of residence.

11 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
12 by substance abuse, addiction, or other health-related conditions.

13 O. "Licensee" means an individual who currently holds an authorization from the state licensing
14 board to practice as an audiologist or speech-language pathologist.

15 P. "Member state" means a state that has enacted the Compact.

16 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
17 speech-language pathology in a remote state.

18 R. "Remote state" means a member state other than the home state where a licensee is
19 exercising or seeking to exercise the compact privilege.

20 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
21 force of law.

22 T. "Single-state license" means an audiology or speech-language pathology license issued by a
23 member state that authorizes practice only within the issuing state and does not include a privilege
24 to practice in any other member state.

25 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
26 speech-language pathology".

27 V. "Speech-language pathology means the care and services provided by a licensed speech-
28 language pathologist as set forth in the member state's statutes and rules after .

29 W. "State" means any state, commonwealth, district or territory of the United States of America
30 that regulates the practice of audiology and speech-language pathology.

31 X. "State practice laws" means a member state's laws, rules and regulations that govern the
32 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
33 pathology practice, and create the methods and grounds for imposing discipline.

34 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
35 speech-language pathology services at a distance for assessment, intervention and/or consultation.

36 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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1 A. A license issued to an audiologist or speech-language pathologist by a home state to a
2 resident in that state shall be recognized by each member state as authorizing an audiologist or
3 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
4 practice, in each member state.

5 B. A state must implement or utilize procedures for considering the criminal history records of
6 applicants for initial privilege to practice. These procedures shall include the submission of
7 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
8 applicant's criminal history record information from the Federal Bureau of Investigation and the
9 agency responsible for retaining that state's criminal records

10 1. A member state must fully implement a criminal background check requirement, within a
11 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
12 search on criminal background checks and use the results in making licensure decisions.

13 2. Communication between a member state, the Commission and among member states
14 regarding the verification of eligibility for licensure through the Compact shall not include any
15 information received from the Federal Bureau of Investigation relating to a federal criminal records
16 check performed by a member state under Public Law 92-544.

17 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
18 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
19 license issued by any other state, whether there are any encumbrances on any license or privilege to
20 practice held by the applicant, whether any adverse action has been taken against any license or
21 privilege to practice held by the applicant.

22 D. Each member state shall require an applicant to obtain or retain a license in the home state
23 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
24 applicable state laws.

25 E. For an audiologist:

26 1. Must meet one of the following educational requirements:

27 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
28 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
29 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
30 United States Department of Education and operated by a college or university accredited by a
31 regional or national accrediting organization recognized by the board; or

32 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
33 degree, regardless of degree name, from a program that is accredited by an accrediting agency
34 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
35 States Department of Education and operated by a college or university accredited by a regional or
36 national accrediting organization recognized by the board; or

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1 c. Has graduated from an audiology program that is housed in an institution of higher education
2 outside of the United States (a) for which the program and institution have been approved by the
3 authorized accrediting body in the applicable country and (b) the degree program has been verified
4 by an independent credentials review agency to be comparable to a state licensing board-approved
5 program.

6 2. Has completed a supervised clinical practicum experience from an accredited educational
7 institution or its cooperating programs as required by the commission;

8 3. Has successfully passed a national examination approved by the Commission;

9 4. Holds an active, unencumbered license;

10 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
11 felony related to the practice of audiology, under applicable state or federal criminal law;

12 6. Has a valid United States Social Security or National Practitioner Identification number.

13 F. For a speech-language pathologist:

14 1. Must meet one of the following educational requirements:

15 a. Has graduated with a master's degree from a speech-language pathology program that is
16 accredited by an organization recognized by the United States Department of Education and
17 operated by a college or university accredited by a regional or national accrediting organization
18 recognized by the board; or

19 b. Has graduated from a speech-language pathology program that is housed in an institution of
20 higher education outside of the United States (a) for which the program and institution have been
21 approved by the authorized accrediting body in the applicable country and (b) the degree program
22 has been verified by an independent credentials review agency to be comparable to a state licensing
23 board-approved program.

24 2. Has completed a supervised clinical practicum experience from an educational institution or
25 its cooperating programs as required by the Commission;

26 3. Has completed a supervised postgraduate professional experience as required by the
27 Commission;

28 4. Has successfully passed a national examination approved by the Commission;

29 5. Holds an active, unencumbered license;

30 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
31 felony related to the practice of speech-language pathology, under applicable state or federal
32 criminal law;

33 7. Has a valid United States Social Security or National Practitioner Identification number.

34 G. The privilege to practice is derived from the home state license.

35 H. An audiologist or speech-language pathologist practicing in a member state must comply
36 with the state practice laws of the state in which the client is located at the time service is provided.
37 The practice of audiology and speech-language pathology shall include all audiology and speech-

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1 language pathology practice as defined by the state practice laws of the member state in which the
2 client is located. The practice of audiology and speech-language pathology in a member state under
3 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
4 of the licensing board, the courts and the laws of the member state in which the client is located at
5 the time service is provided.

6 I. Individuals not residing in a member state shall continue to be able to apply for a member
7 state's single-state license as provided under the laws of each member state. However, the single-
8 state license granted to these individuals shall not be recognized as granting the privilege to practice
9 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
10 affect the requirements established by a member state for the issuance of a single-state license.

11 J. Member states may charge a fee for granting a compact privilege.

12 K. Member states must comply with the bylaws and rules and regulations of the Commission.

13 **SECTION 4. COMPACT PRIVILEGE**

14 A. To exercise the compact privilege under the terms and provisions of the Compact, the
15 audiologist or speech-language pathologist shall:

- 16 1. Hold an active license in the home state;
- 17 2. Have no encumbrance on any state license;
- 18 3. Be eligible for a compact privilege in any member state in accordance with Section 3;
- 19 4. Have not had any adverse action against any license or compact privilege within the previous
20 2 years from date of application;
- 21 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
22 state(s);
- 23 6. Pay any applicable fees, including any state fee, for the compact privilege;
- 24 7. Report to the Commission adverse action taken by any non-member state within 30 days from
25 the date the adverse action is taken.

26 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
27 only hold one home state license at a time.

28 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
29 primary state of residence by moving between two-member states, the audiologist or speech-
30 language pathologist must apply for licensure in the new home state, and the license issued by the
31 prior home state shall be deactivated in accordance with applicable rules adopted by the
32 Commission.

33 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
34 change in primary state of residence.

35 E. A license shall not be issued by the new home state until the audiologist or speech-language
36 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
37 state and satisfies all applicable requirements to obtain a license from the new home state.

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1 F. If an audiologist or speech-language pathologist changes primary state of residence by
2 moving from a member state to a non-member state, the license issued by the prior home state shall
3 convert to a single-state license, valid only in the former home state.

4 G. The compact privilege is valid until the expiration date of the home state license. The
5 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
6 remote state.

7 H. A licensee providing audiology or speech-language pathology services in a remote state under
8 the compact privilege shall function within the laws and regulations of the remote state.

9 I. A licensee providing audiology or speech-language pathology services in a remote state is
10 subject to that state's regulatory authority. A remote state may, in accordance with due process and
11 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
12 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
13 citizens.

14 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
15 remote state until the following occur:

- 16 1. The home state license is no longer encumbered; and
- 17 2. Two years have elapsed from the date of the adverse action.

18 K. Once an encumbered license in the home state is restored to good standing, the licensee must
19 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

20 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
21 in Section 4A to obtain a compact privilege in a remote state.

22 **SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH**

23 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
24 a home state in accordance with Section 3 and under rules promulgated by the Commission, to
25 practice audiology or speech-language pathology in any member state via telehealth under a
26 privilege to practice as provided in the Compact and rules promulgated by the Commission.

27 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

28 Active duty military personnel, or their spouse, shall designate a home state where the individual
29 has a current license in good standing. The individual may retain the home state designation during
30 the period the service member is on active duty. Subsequent to designating a home state, the
31 individual shall only change their home state through application for licensure in the new state.

32 **SECTION 7. ADVERSE ACTIONS**

33 A. In addition to the other powers conferred by state law, a remote state shall have the
34 authority, in accordance with existing state due process law, to:

- 35 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
36 practice within that member state.

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2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

C. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

D. If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

E. The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-

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1 language pathologist's privilege to practice is deactivated in all member states during the pendency
2 of the order.

3 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
4 system. The administrator of the data system shall promptly notify the home state of any adverse
5 actions by remote states.

6 I. Nothing in this Compact shall override a member state's decision that participation in an
7 alternative program may be used in lieu of adverse action.

8 **SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE**
9 **PATHOLOGY COMPACT COMMISSION**

10 A. The Compact member states hereby create and establish a joint public agency known as the
11 Audiology and Speech-Language Pathology Compact Commission:

12 1. The Commission is an instrumentality of the Compact states.

13 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
14 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
15 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
16 consents to participate in alternative dispute resolution proceedings.

17 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

18 B. Membership, Voting and Meetings

19 1. Each member state shall have two (2) delegates selected by that member state's licensing
20 board. The delegates shall be current members of the licensing board. One shall be an audiologist
21 and one shall be a speech-language pathologist.

22 2. An additional five (5) delegates, who are either a public member or board administrator from
23 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
24 provided by the Commission at Large.

25 3. Any delegate may be removed or suspended from office as provided by the law of the state
26 from which the delegate is appointed.

27 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

28 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
29 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
30 of the Commission.

31 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
32 provide for delegates' participation in meetings by telephone or other means of communication.

33 7. The Commission shall meet at least once during each calendar year. Additional meetings
34 shall be held as set forth in the bylaws.

35 C. The Commission shall have the following powers and duties:

36 1. Establish the fiscal year of the Commission;

37 2. Establish bylaws;

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1 3. Establish a Code of Ethics;

2 4. Maintain its financial records in accordance with the bylaws;

3 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

4 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
5 this Compact. The rules shall have the force and effect of law and shall be binding in all member
6 states;

7 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
8 that the standing of any state audiology or speech-language pathology licensing board to sue or be
9 sued under applicable law shall not be affected;

10 8. Purchase and maintain insurance and bonds;

11 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
12 of a member state;

13 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
14 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
15 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
16 other related personnel matters;

17 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
18 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
19 Commission shall avoid any appearance of impropriety and/or conflict of interest;

20 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
21 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
22 any appearance of impropriety;

23 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
24 property real, personal, or mixed;

25 14. Establish a budget and make expenditures;

26 15. Borrow money;

27 16. Appoint committees, including standing committees composed of members, and other
28 interested persons as may be designated in this Compact and the bylaws;

29 17. Provide and receive information from, and cooperate with, law enforcement agencies;

30 18. Establish and elect an Executive Committee; and

31 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
32 Compact consistent with the state regulation of audiology and speech-language pathology licensure
33 and practice.

34 D. The Executive Committee

35 The Executive Committee shall have the power to act on behalf of the Commission according to the
36 terms of this Compact:

37 1. The Executive Committee shall be composed of ten (10) members:

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1 a. Seven (7) voting members who are elected by the Commission from the current membership
2 of the Commission;

3 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
4 professional association and one nonvoting member from a recognized national speech-language
5 pathology association; and

6 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
7 audiology and speech-language pathology licensing boards.

8 E. The ex-officio members shall be selected by their respective organizations.

9 1. The Commission may remove any member of the Executive Committee as provided in bylaws.

10 2. The Executive Committee shall meet at least annually.

11 3. The Executive Committee shall have the following duties and responsibilities:

12 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
13 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
14 Compact fee charged to licensees for the compact privilege;

15 b. Ensure Compact administration services are appropriately provided, contractual or
16 otherwise;

17 c. Prepare and recommend the budget;

18 d. Maintain financial records on behalf of the Commission;

19 e. Monitor Compact compliance of member states and provide compliance reports to the
20 Commission;

21 f. Establish additional committees as necessary; and

22 g. Other duties as provided in rules or bylaws.

23 4. Meetings of the Commission

24 All meetings shall be open to the public, and public notice of meetings shall be given in the same
25 manner as required under the rulemaking provisions in Section 10.

26 5. The Commission or the Executive Committee or other committees of the Commission may
27 convene in a closed, non-public meeting if the Commission or Executive Committee or other
28 committees of the Commission must discuss:

29 a. Non-compliance of a member state with its obligations under the Compact;

30 b. The employment, compensation, discipline or other matters, practices or procedures related to
31 specific employees or other matters related to the Commission's internal personnel practices and
32 procedures;

33 c. Current, threatened, or reasonably anticipated litigation;

34 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

35 e. Accusing any person of a crime or formally censuring any person;

36 f. Disclosure of trade secrets or commercial or financial information that is privileged or
37 confidential;

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1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

11 7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a
12 meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore,
13 including a description of the views expressed. All documents considered in connection with an
14 action shall be identified in minutes. All minutes and documents of a closed meeting shall remain
15 under seal, subject to release by a majority vote of the Commission or order of a court of competent
16 jurisdiction.

17 8. Financing of the Commission

18 a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its
19 establishment, organization, and ongoing activities.

20 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 c. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
25 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
26 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
27 rule binding upon all member states.

28 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
32 receipts and disbursements of the Commission shall be subject to the audit and accounting
33 procedures established under its bylaws. However, all receipts and disbursements of funds handled
34 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
35 report of the audit shall be included in and become part of the annual report of the Commission.

36 F. Qualified Immunity, Defense, and Indemnification

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1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
8 willful or wanton misconduct of that person.

9 2. The Commission shall defend any member, officer, executive director, employee or
10 representative of the Commission in any civil action seeking to impose liability arising out of any
11 actual or alleged act, error, or omission that occurred within the scope of Commission employment,
12 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis
13 for believing occurred within the scope of Commission employment, duties, or responsibilities;
14 provided that nothing herein shall be construed to prohibit that person from retaining his or her own
15 counsel; and provided further, that the actual or alleged act, error, or omission did not result from
16 that person's intentional or willful or wanton misconduct.

17 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
18 employee, or representative of the Commission for the amount of any settlement or judgment
19 obtained against that person arising out of any actual or alleged act, error or omission that occurred
20 within the scope of Commission employment, duties, or responsibilities, or that person had a
21 reasonable basis for believing occurred within the scope of Commission employment, duties, or
22 responsibilities, provided that the actual or alleged act, error, or omission did not result from the
23 intentional or willful or wanton misconduct of that person.

24 **SECTION 9. DATA SYSTEM**

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. Notwithstanding any other provision of state law to the contrary, a member state shall
29 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
30 as required by the rules of the Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or compact privilege;
- 34 4. Non-confidential information related to alternative program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for denial; and
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission.

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1 C. Investigative information pertaining to a licensee in any member state shall only be available
2 to other member states.

3 D. The Commission shall promptly notify all member states of any adverse action taken against
4 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
5 in any member state shall be available to any other member state.

6 E. Member states contributing information to the data system may designate information that
7 may not be shared with the public without the express permission of the contributing state.

8 F. Any information submitted to the data system that is subsequently required to be expunged
9 by the laws of the member state contributing the information shall be removed from the data
10 system.

11 **SECTION 10. RULEMAKING**

12 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
13 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
14 the date specified in each rule or amendment.

15 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
16 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
17 the rule, the rule shall have no further force and effect in any member state.

18 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
19 Commission.

20 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
21 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
22 Commission shall file a Notice of Proposed Rulemaking:

23 1. On the website of the Commission or other publicly accessible platform; and

24 2. On the website of each member state audiology or speech-language pathology licensing board
25 or other publicly accessible platform or the publication in which each state would otherwise publish
26 proposed rules.

27 E. The Notice of Proposed Rulemaking shall include:

28 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
29 voted upon;

30 2. The text of the proposed rule or amendment and the reason for the proposed rule;

31 3. A request for comments on the proposed rule from any interested person; and

32 4. The manner in which interested persons may submit notice to the Commission of their
33 intention to attend the public hearing and any written comments.

34 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
35 written data, facts, opinions and arguments, which shall be made available to the public.

36 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
37 amendment if a hearing is requested by:

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1. At least twenty-five (25) persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording shall be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds; or
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the

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1 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
2 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
3 revision shall take effect without further action. If the revision is challenged, the revision may not
4 take effect without the approval of the Commission.

5 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

6 **A. Dispute Resolution**

7 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
8 the Compact that arise among member states and between member and non-member states.

9 2. The Commission shall promulgate a rule providing for both mediation and binding dispute
10 resolution for disputes as appropriate.

11 **B. Enforcement**

12 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
13 rules of this Compact.

14 2. By majority vote, the Commission may initiate legal action in the United States District
15 Court for the District of Columbia or the federal district where the Commission has its principal
16 offices against a member state in default to enforce compliance with the provisions of the Compact
17 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
18 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
19 costs of litigation, including reasonable attorney's fees.

20 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
21 may pursue any other remedies available under federal or state law.

22 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**
23 **AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,**
24 **WITHDRAWAL, AND AMENDMENT**

25 **A.** The Compact shall come into effect on the date on which the Compact statute is enacted into
26 law in the 10th member state. The provisions, which become effective at that time, shall be limited
27 to the powers granted to the Commission relating to assembly and the promulgation of rules.
28 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
29 implementation and administration of the Compact.

30 **B.** Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
31 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
32 state. Any rule that has been previously adopted by the Commission shall have the full force and
33 effect of law on the day the Compact becomes law in that state.

34 **C.** Any member state may withdraw from this Compact by enacting a statute repealing the
35 same.

36 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
37 repealing statute.

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2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

3 New Section; Occupational Therapists; Occupational Therapy Licensure Compact. Amend RSA 326-C by inserting after section 8 the following new section:

326-C:9 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts the provisions of the Occupational Therapy Licensure Compact as follows:

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The Practice of occupational therapy

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occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

B. Enhance the states' ability to protect the public's health and safety;

C. Encourage the cooperation of member states in regulating multi-state occupational therapy practice;

D. Support spouses of relocating military members;

E. Enhance the exchange of licensure, investigative, and disciplinary information between Member states;

F. Allow a remote state to hold a provider of services with a Compact privilege in that state accountable to that state's practice standards; and

G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

C. "Alternative Program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board.

D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

E. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

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1 F. “Current significant investigative information” means investigative information that a
2 licensing board, after an inquiry or investigation that includes notification and an opportunity for
3 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
4 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

5 G. “Data system” means a repository of information about licensees, including but not limited to
6 license status, investigative information, Compact privileges, and adverse actions.

7 H. “Encumbered license” means a license in which an adverse action restricts the practice of
8 occupational therapy by the licensee or said adverse action has been reported to the National
9 Practitioners Data Bank (NPDB).

10 I. “Executive Committee” means a group of directors elected or appointed to act on behalf of, and
11 within the powers granted to them by, the Commission.

12 J. “Home state” means the member state that is the licensee’s Primary state of residence.

13 K. “Impaired practitioner” means individuals whose professional practice is adversely affected
14 by substance abuse, addiction, or other health-related conditions.

15 L. “Investigative Information” means information, records, and/or documents received or
16 generated by an occupational therapy licensing board pursuant to an investigation.

17 M. “Jurisprudence requirement” means the assessment of an individual’s knowledge of the laws
18 and rules governing the practice of occupational therapy in a state.

19 N. “Licensee” means an individual who currently holds an authorization from the state to
20 practice as an occupational therapist or as an occupational therapy assistant.

21 O. “Member state” means a state that has enacted the Compact.

22 P. “Occupational therapist” means an individual who is licensed by a state to practice
23 occupational therapy.

24 Q. “Occupational therapy assistant” means an individual who is licensed by a state to assist in
25 the practice of occupational therapy.

26 R. “Occupational therapy,” “occupational therapy practice,” and the “practice of occupational
27 therapy” mean the care and services provided by an occupational therapist or an occupational
28 therapy assistant as set forth in the member state’s statutes and regulations.

29 S. “Occupational therapy Compact Commission” or “Commission” means the national
30 administrative body whose membership consists of all states that have enacted the Compact.

31 T. “Occupational therapy licensing board” or “licensing board” means the agency of a state that
32 is authorized to license and regulate occupational therapists and occupational therapy assistants.

33 U. “Primary state of residence” means the state (also known as the home state) in which an
34 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
35 primary residence for legal purposes as verified by: driver’s license, federal income tax return, lease,
36 deed, mortgage or voter registration or other verifying documentation as further defined by
37 Commission rules.

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1 V. "Remote state" means a member state other than the home state, where a licensee is
2 exercising or seeking to exercise the Compact privilege.

3 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

4 X. "State" means any state, commonwealth, district, or territory of the United States of America
5 that regulates the practice of occupational therapy.

6 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
7 license issued by a member state that authorizes practice only within the issuing state and does not
8 include a Compact privilege in any other member state.

9 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
10 therapy services for assessment, intervention and/or consultation.

11 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

12 A. To participate in the Compact, a member state shall:

13 1. License occupational therapists and occupational therapy assistants;

14 2. Participate fully in the Commission's data system, including but not limited to using the
15 Commission's unique identifier as defined in rules of the Commission;

16 3. Have a mechanism in place for receiving and investigating complaints about licensees;

17 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
18 adverse action or the availability of investigative information regarding a licensee;

19 5. Implement or utilize procedures for considering the criminal history records of applicants for
20 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
21 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
22 history record information from the Federal Bureau of Investigation and the agency responsible for
23 retaining that state's criminal records;

24 a. A member state shall, within a time frame established by the Commission, require a criminal
25 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
26 residence is that member state, by receiving the results of the Federal Bureau of Investigation
27 criminal record search, and shall use the results in making licensure decisions.

28 b. Communication between a member state, the Commission and among member states
29 regarding the verification of eligibility for licensure through the Compact shall not include any
30 information received from the Federal Bureau of Investigation relating to a federal criminal records
31 check performed by a member state under Public Law 92-544.

32 6. Comply with the rules of the Commission;

33 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
34 rules of the Commission; and

35 8. Have Continuing Competence/Education requirements as a condition for license renewal.

36 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
37 license in another member state in accordance with the terms of the Compact and rules.

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1 C. Member states may charge a fee for granting a Compact privilege.

2 D. A member state shall provide for the state's delegate to attend all occupational therapy
3 Compact Commission meetings.

4 E. Individuals not residing in a member state shall continue to be able to apply for a member
5 state's Single-state license as provided under the laws of each member state. However, the Single-
6 state license granted to these individuals shall not be recognized as granting the Compact privilege
7 in any other member state.

8 F. Nothing in this Compact shall affect the requirements established by a member state for the
9 issuance of a Single-state license.

10 **SECTION 4. COMPACT PRIVILEGE**

11 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
12 licensee shall:

13 1. Hold a license in the home state;

14 2. Have a valid United States Social Security Number or National Practitioner Identification
15 number;

16 3. Have no encumbrance on any state license;

17 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
18 and H;

19 5. Have paid all fines and completed all requirements resulting from any adverse action against
20 any license or Compact privilege, and two years have elapsed from the date of such completion;

21 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
22 state(s);

23 7. Pay any applicable fees, including any state fee, for the Compact privilege;

24 8. Complete a criminal background check in accordance with Section 3A(5);

25 a. The licensee shall be responsible for the payment of any fee associated with the completion of
26 a criminal background check.

27 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
28 is seeking a Compact privilege; and

29 10. Report to the Commission adverse action taken by any non-member state within 30 days
30 from the date the adverse action is taken.

31 B. The Compact privilege is valid until the expiration date of the home state license. The
32 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
33 remote state.

34 C. A licensee providing occupational therapy in a remote state under the Compact privilege
35 shall function within the laws and regulations of the remote state.

36 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
37 occupational therapist licensed or holding a Compact privilege in that remote state.

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1 E. A licensee providing occupational therapy in a remote state is subject to that state's
2 regulatory authority. A remote state may, in accordance with due process and that state's laws,
3 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
4 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
5 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
6 and all fines are paid.

7 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
8 remote state until the following occur:

- 9 1. The home state license is no longer encumbered; and
10 2. Two years have elapsed from the date on which the home state license is no longer
11 encumbered in accordance with Section 4(F)(1).

12 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
13 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.

14 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
15 Compact privilege in any other remote state until the following occur:

- 16 1. The specific period of time for which the Compact privilege was removed has ended;
17 2. All fines have been paid and all conditions have been met;
18 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and
19 4. The Compact privileges are reinstated by the Commission, and the compact data system is
20 updated to reflect reinstatement.

21 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
22 privileges shall be restored through the compact data system.

23 J. Once the requirements of Section 4H have been met, the license must meet the requirements
24 in Section 4A to obtain a Compact privilege in a remote state.

25 **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT**
26 **PRIVILEGE**

27 A. An occupational therapist or occupational therapy assistant may hold a home state license,
28 which allows for Compact privileges in member states, in only one member state at a time.

29 B. If an occupational therapist or occupational therapy assistant changes primary state of
30 residence by moving between two member states:

- 31 1. The occupational therapist or occupational therapy assistant shall file an application for
32 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
33 notify the current and new home state in accordance with applicable rules adopted by the
34 Commission.

- 35 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
36 privilege, the new home state shall verify that the occupational therapist or occupational therapy

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1 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
2 primary source verification except for:

- 3 a. An FBI fingerprint based criminal background check if not previously performed or updated
4 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;
- 5 b. Other criminal background check as required by the new home state; and
- 6 c. Submission of any requisite jurisprudence requirements of the new home state.

7 3. The former home state shall convert the former home state license into a Compact privilege
8 once the new home state has activated the new home state license in accordance with applicable
9 rules adopted by the Commission.

10 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
11 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
12 its requirements for issuing a new Single-state license.

13 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
14 to the new home state in order to be issued a new home state license.

15 C. If an occupational therapist or occupational therapy assistant changes primary state of
16 residence by moving from a member state to a non-member state, or from a non-member state to a
17 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

18 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
19 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
20 state license.

21 E. Nothing in this Compact shall affect the requirements established by a member state for the
22 issuance of a Single-state license.

23 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

24 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
25 individual has a current license in good standing. The individual may retain the home state
26 designation during the period the service member is on active duty. Subsequent to designating a
27 home state, the individual shall only change their home state through application for licensure in the
28 new state or through the process described in Section 5.

29 **SECTION 7. ADVERSE ACTIONS**

30 A. A home state shall have exclusive power to impose adverse action against an occupational
31 therapist's or occupational therapy assistant's license issued by the home state.

32 B. In addition to the other powers conferred by state law, a remote state shall have the
33 authority, in accordance with existing state due process law, to:

34 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
35 Compact privilege within that member state.

36 2. Issue subpoenas for both hearings and investigations that require the attendance and
37 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board

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1 in a member state for the attendance and testimony of witnesses or the production of evidence from
2 another member state shall be enforced in the latter state by any court of competent jurisdiction,
3 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
4 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
5 other fees required by the service statutes of the state in which the witnesses or evidence are
6 located.

7 C. For purposes of taking adverse action, the home state shall give the same priority and effect
8 to reported conduct received from a member state as it would if the conduct had occurred within the
9 home state. In so doing, the home state shall apply its own state laws to determine appropriate
10 action.

11 D. The home state shall complete any pending investigations of an occupational therapist or
12 occupational therapy assistant who changes primary state of residence during the course of the
13 investigations. The home state, where the investigations were initiated, shall also have the
14 authority to take appropriate action(s) and shall promptly report the conclusions of the
15 investigations to the OT Compact Commission data system. The occupational therapy Compact
16 Commission data system administrator shall promptly notify the new home state of any adverse
17 actions.

18 E. A member state, if otherwise permitted by state law, may recover from the affected
19 occupational therapist or occupational therapy assistant the costs of investigations and disposition of
20 cases resulting from any adverse action taken against that occupational therapist or occupational
21 therapy assistant.

22 F. A member state may take adverse action based on the factual findings of the remote state,
23 provided that the member state follows its own procedures for taking the adverse action.

24 G. Joint Investigations

25 1. In addition to the authority granted to a member state by its respective state occupational
26 therapy laws and regulations or other applicable state law, any member state may participate with
27 other member states in joint investigations of licensees.

28 2. Member states shall share any investigative, litigation, or compliance materials in
29 furtherance of any joint or individual investigation initiated under the Compact.

30 H. If an adverse action is taken by the home state against an occupational therapist's or
31 occupational therapy assistant's license, the occupational therapist's or occupational therapy
32 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
33 have been removed from the state license. All home state disciplinary orders that impose adverse
34 action against an occupational therapist's or occupational therapy assistant's license shall include a
35 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
36 deactivated in all member states during the pendency of the order.

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1 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
2 system. The administrator of the data system shall promptly notify the home state of any adverse
3 actions by remote states.

4 J. Nothing in this Compact shall override a member state's decision that participation in an
5 Alternative Program may be used in lieu of adverse action.

6 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT**
7 **COMMISSION.**

8 A. The Compact member states hereby create and establish a joint public agency known as the
9 occupational therapy Compact Commission:

10 1. The Commission is an instrumentality of the Compact states.

11 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
12 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
13 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
14 consents to participate in alternative dispute resolution proceedings.

15 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

16 B. Membership, Voting, and Meetings

17 1. Each member state shall have and be limited to one (1) delegate selected by that member
18 state's licensing board.

19 2. The delegate shall be either:

20 a. A current member of the licensing board, who is an occupational therapist, occupational
21 therapy assistant, or public member; or

22 b. An administrator of the licensing board.

23 3. Any delegate may be removed or suspended from office as provided by the law of the state
24 from which the delegate is appointed.

25 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

26 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
27 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
28 of the Commission. A delegate shall vote in person or by such other means as provided in the
29 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
30 means of communication.

31 6. The Commission shall meet at least once during each calendar year. Additional meetings
32 shall be held as set forth in the bylaws.

33 7. The Commission shall establish by rule a term of office for delegates.

34 C. The Commission shall have the following powers and duties:

35 1. Establish a Code of Ethics for the Commission;

36 2. Establish the fiscal year of the Commission;

37 3. Establish bylaws;

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1 4. Maintain its financial records in accordance with the bylaws;

2 5. Meet and take such actions as are consistent with the provisions of this Compact and the
3 bylaws;

4 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
5 this Compact. The rules shall have the force and effect of law and shall be binding in all member
6 states;

7 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
8 that the standing of any state occupational therapy licensing board to sue or be sued under
9 applicable law shall not be affected;

10 8. Purchase and maintain insurance and bonds;

11 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
12 of a member state;

13 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
14 individuals appropriate authority to carry out the purposes of the Compact, and establish the
15 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
16 personnel, and other related personnel matters;

17 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
18 materials and services, and receive, utilize and dispose of the same; provided that at all times the
19 Commission shall avoid any appearance of impropriety and/or conflict of interest;

20 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
21 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
22 appearance of impropriety;

23 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
24 property real, personal, or mixed;

25 14. Establish a budget and make expenditures;

26 15. Borrow money;

27 16. Appoint committees, including standing committees composed of members, state regulators,
28 state legislators or their representatives, and consumer representatives, and such other interested
29 persons as may be designated in this Compact and the bylaws;

30 17. Provide and receive information from, and cooperate with, law enforcement agencies;

31 18. Establish and elect an Executive Committee; and

32 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
33 this Compact consistent with the state regulation of occupational therapy licensure and practice.

34 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
35 the Commission according to the terms of this Compact.

36 1. The Executive Committee shall be composed of nine members:

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1 a. Seven voting members who are elected by the Commission from the current membership of
2 the Commission;

3 b. One ex-officio, nonvoting member from a recognized national occupational therapy
4 professional association; and

5 c. One ex-officio, nonvoting member from a recognized national occupational therapy
6 certification organization.

7 2. The ex-officio members will be selected by their respective organizations.

8 3. The Commission may remove any member of the Executive Committee as provided in bylaws.

9 4. The Executive Committee shall meet at least annually.

10 5. The Executive Committee shall have the following duties and responsibilities:

11 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
12 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
13 Compact fee charged to licensees for the Compact privilege;

14 b. Ensure Compact administration services are appropriately provided, contractual or
15 otherwise;

16 c. Prepare and recommend the budget;

17 d. Maintain financial records on behalf of the Commission;

18 e. Monitor Compact compliance of member states and provide compliance reports to the
19 Commission;

20 f. Establish additional committees as necessary; and

21 g. Perform other duties as provided in rules or bylaws.

22 E. Meetings of the Commission

23 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
24 same manner as required under the rulemaking provisions in Section 10.

25 2. The Commission or the Executive Committee or other committees of the Commission may
26 convene in a closed, non-public meeting if the Commission or Executive Committee or other
27 committees of the Commission must discuss:

28 a. Non-compliance of a member state with its obligations under the Compact;

29 b. The employment, compensation, discipline or other matters, practices or procedures related to
30 specific employees or other matters related to the Commission's internal personnel practices and
31 procedures;

32 c. Current, threatened, or reasonably anticipated litigation;

33 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

34 e. Accusing any person of a crime or formally censuring any person;

35 f. Disclosure of trade secrets or commercial or financial information that is privileged or
36 confidential;

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1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

11 4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a
12 meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore,
13 including a description of the views expressed. All documents considered in connection with an
14 action shall be identified in such minutes. All minutes and documents of a closed meeting shall
15 remain under seal, subject to release by a majority vote of the Commission or order of a court of
16 competent jurisdiction.

17 F. Financing of the Commission

18 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its
19 establishment, organization, and ongoing activities.

20 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 3. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
25 Commission each year for which revenue is not provided by other sources. The aggregate annual
26 assessment amount shall be allocated based upon a formula to be determined by the Commission,
27 which shall promulgate a rule binding upon all member states.

28 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
32 and disbursements of the Commission shall be subject to the audit and accounting procedures
33 established under its bylaws. However, all receipts and disbursements of funds handled by the
34 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
35 audit shall be included in and become part of the annual report of the Commission.

36 G. Qualified Immunity, Defense, and Indemnification

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1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
8 intentional or willful or wanton misconduct of that person.

9 2. The Commission shall defend any member, officer, executive director, employee, or
10 representative of the Commission in any civil action seeking to impose liability arising out of any
11 actual or alleged act, error, or omission that occurred within the scope of Commission employment,
12 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis
13 for believing occurred within the scope of Commission employment, duties, or responsibilities;
14 provided that nothing herein shall be construed to prohibit that person from retaining his or her own
15 counsel; and provided further, that the actual or alleged act, error, or omission did not result from
16 that person's intentional or willful or wanton misconduct.

17 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
18 employee, or representative of the Commission for the amount of any settlement or judgment
19 obtained against that person arising out of any actual or alleged act, error or omission that occurred
20 within the scope of Commission employment, duties, or responsibilities, or that such person had a
21 reasonable basis for believing occurred within the scope of Commission employment, duties, or
22 responsibilities, provided that the actual or alleged act, error, or omission did not result from the
23 intentional or willful or wanton misconduct of that person.

24 **SECTION 9. DATA SYSTEM**

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. A member state shall submit a uniform data set to the data system on all individuals to
29 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
30 Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or Compact privilege;
- 34 4. Non-confidential information related to Alternative Program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for such denial;
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission; and

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1 7. Current significant investigative information.

2 C. Current significant investigative information and other investigative information pertaining
3 to a licensee in any member state will only be available to other member states.

4 D. The Commission shall promptly notify all member states of any adverse action taken against
5 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
6 in any member state will be available to any other member state.

7 E. Member states contributing information to the data system may designate information that
8 may not be shared with the public without the express permission of the contributing state.

9 F. Any information submitted to the data system that is subsequently required to be expunged
10 by the laws of the member state contributing the information shall be removed from the data
11 system.

12 SECTION 10. RULEMAKING

13 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
14 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
15 the date specified in each rule or amendment.

16 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
17 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
18 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
19 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
20 and have no force and effect.

21 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
22 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
23 the rule, then such rule shall have no further force and effect in any member state.

24 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
25 Commission.

26 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
27 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
28 Commission shall file a notice of proposed rulemaking:

29 1. On the website of the Commission or other publicly accessible platform; and

30 2. On the website of each member state occupational therapy licensing board or other publicly
31 accessible platform or the publication in which each state would otherwise publish proposed rules.

32 F. The notice of proposed rulemaking shall include:

33 1. The proposed time, date, and location of the meeting in which the rule will be considered and
34 voted upon;

35 2. The text of the proposed rule or amendment and the reason for the proposed rule;

36 3. A request for comments on the proposed rule from any interested person; and

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1 4. The manner in which interested persons may submit notice to the Commission of their
2 intention to attend the public hearing and any written comments.

3 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
4 data, facts, opinions, and arguments, which shall be made available to the public.

5 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
6 amendment if a hearing is requested by:

- 7 1. At least twenty five (25) persons;
- 8 2. A state or federal governmental subdivision or agency; or
- 9 3. An association or organization having at least twenty five (25) members.

10 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
11 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
12 Commission shall publish the mechanism for access to the electronic hearing.

13 1. All persons wishing to be heard at the hearing shall notify the executive director of the
14 Commission or other designated member in writing of their desire to appear and testify at the
15 hearing not less than five (5) business days before the scheduled date of the hearing.

16 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
17 and reasonable opportunity to comment orally or in writing.

18 3. All hearings will be recorded. A copy of the recording will be made available on request.

19 4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules
20 may be grouped for the convenience of the Commission at hearings required by this section.

21 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
22 date if the hearing was not held, the Commission shall consider all written and oral comments
23 received.

24 K. If no written notice of intent to attend the public hearing by interested parties is received, the
25 Commission may proceed with promulgation of the proposed rule without a public hearing.

26 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
27 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
28 text of the rule.

29 M. Upon determination that an emergency exists, the Commission may consider and adopt an
30 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
31 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
32 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
33 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
34 immediately in order to:

- 35 1. Meet an imminent threat to public health, safety, or welfare;
- 36 2. Prevent a loss of Commission or member state funds;

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1 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
2 law or rule; or

3 4. Protect public health and safety.

4 N. The Commission or an authorized committee of the Commission may direct revisions to a
5 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
6 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
7 on the website of the Commission. The revision shall be subject to challenge by any person for a
8 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
9 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
10 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
11 revision will take effect without further action. If the revision is challenged, the revision may not
12 take effect without the approval of the Commission.

13 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

14 A. Oversight

15 1. The executive, legislative, and judicial branches of state government in each member state
16 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
17 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
18 hereunder shall have standing as statutory law.

19 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
20 administrative proceeding in a member state pertaining to the subject matter of this Compact which
21 may affect the powers, responsibilities, or actions of the Commission.

22 3. The Commission shall be entitled to receive service of process in any such proceeding, and
23 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
24 process to the Commission shall render a judgment or order void as to the Commission, this
25 Compact, or promulgated rules.

26 B. Default, Technical Assistance, and Termination

27 1. If the Commission determines that a member state has defaulted in the performance of its
28 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

29 a. Provide written notice to the defaulting state and other member states of the nature of the
30 default, the proposed means of curing the default and/or any other action to be taken by the
31 Commission; and

32 b. Provide remedial training and specific technical assistance regarding the default.

33 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
34 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
35 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
36 the default does not relieve the offending state of obligations or liabilities incurred during the period
37 of default.

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3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules.

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1 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
2 implementation and administration of the Compact.

3 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
4 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
5 state. Any rule that has been previously adopted by the Commission shall have the full force and
6 effect of law on the day the Compact becomes law in that state.

7 C. Any member state may withdraw from this Compact by enacting a statute repealing the
8 same.

9 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
10 repealing statute.

11 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
12 occupational therapy licensing board to comply with the investigative and adverse action reporting
13 requirements of this act prior to the effective date of withdrawal.

14 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
15 occupational therapy licensure agreement or other cooperative arrangement between a member state
16 and a non-member state that does not conflict with the provisions of this Compact.

17 E. This Compact may be amended by the member states. No amendment to this Compact shall
18 become effective and binding upon any member state until it is enacted into the laws of all member
19 states.

20 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

21 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
22 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
23 declared to be contrary to the constitution of any member state or of the United States or the
24 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
25 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
26 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
27 of any member state, the Compact shall remain in full force and effect as to the remaining member
28 states and in full force and effect as to the member state affected as to all severable matters.

29 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

30 A. A licensee providing occupational therapy in a remote state under the Compact privilege
31 shall function within the laws and regulations of the remote state.

32 B. Nothing herein prevents the enforcement of any other law of a member state that is not
33 inconsistent with the Compact.

34 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
35 conflict.

36 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
37 Commission, are binding upon the member states.

1 E. All agreements between the Commission and the member states are binding in accordance
2 with their terms.

3 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
4 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
5 the constitutional provision in question in that member state.

6 4 Effective Date. Part IV of this act shall take effect July 1, 2021.

9 Relative to the authority of the office of professional licensure and certification for administration,
10 rulemaking, and enforcement of investigations, hearings, and appeals.

1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA
2 310-A:1-d, II(h)(2) to read as follows:

(2) Such organizational and procedural rules necessary to administer the boards, commissions, and councils in the office of professional licensure and certification, including rules governing the administration of complaints and investigations, ***hearings, disciplinary proceedings***, payment processing procedures, and application procedures; and

2 New Paragraph; Office of Professional Licensure and Certification; Administration; Standing
Orders. Amend RSA 310-A:1-d by inserting after paragraph III the following new paragraph:

IV. All boards, councils, and commissions may issue standing orders delegating non-discretionary tasks to staff of the office of professional licensure and certification.

3 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

23 310-A:1-h Investigations.

I. Boards, which shall include all boards, councils, and commissions within the office of professional licensure and certification, may authorize an investigation of allegations of misconduct by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges that a person licensed by the board has committed misconduct. When requested by the board, the office shall assign an investigator, who may assist in the investigation.

II. The procedures set forth in RSA 310-A:1-h through RSA 310-A:1-l are supplementary and shall not supplant or supersede any procedures expressly set forth in any board's individual practice act.

III. The following information obtained during investigations shall be held confidential and shall be exempt from the disclosure requirements of RSA 91-A:

34 (a) Complaints received by the office.

35 (b) Information and records acquired by the office during the investigation.

36 (c) Reports and records made by the office as a result of its investigation.

37 IV. For the purpose of carrying out investigations, the executive director is authorized to:

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1 (a) Retain qualified experts.

2 (b) Conduct inspections of places of business of licensees or certificate holders.

3 (c) Retain legal counsel when authorized to do so by the attorney general.

4 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
5 with the following conditions:

6 (1) Subpoenas for persons shall not require compliance in less than 48 hours after
7 receipt of service.

8 (2) Subpoenas for documents and things shall not require compliance in fewer than
9 15 days after receipt of service.

10 (3) Service shall be made on licensees and certified individuals by certified mail to
11 the address on file with the office or by hand and shall not entitle them to witness or mileage fees.

12 (4) Service shall be made on persons who are not licensees or certified individuals in
13 accordance with the procedures and fee schedules of the superior court, and the subpoenas served on
14 them shall be annotated "Fees Guaranteed by the New Hampshire Office of Professional Licensure
15 and Certification."

16 V. The office or the boards, councils, and commissions within the office may disclose
17 information acquired in an investigation to law enforcement, if it involves suspected criminal
18 activity, to health licensing agencies in this state or any other jurisdiction, or in response to specific
19 statutory requirements or court orders.

20 VI. Allegations of professional misconduct shall be brought within 5 years from the time the
21 office reasonably could have discovered the act, omission or failure complained of, except that
22 conduct which resulted in a criminal conviction or in a disciplinary action by a relevant licensing
23 authority in another jurisdiction may be considered by the board without time limitation in making
24 licensing or disciplinary decisions if the conduct would otherwise be a ground for discipline. The
25 board may also consider licensee conduct without time limitation when the ultimate issue before the
26 board involves a pattern of conduct or the cumulative effect of conduct which becomes apparent as a
27 result of conduct which has occurred within the 5-year limitation period prescribed by this
28 paragraph.

29 VII. Each board, council, or commission may dismiss a complaint if the allegations do not
30 state a claim of professional misconduct.

31 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

32 I. Boards, which shall include all boards, councils, and commissions within the office of
33 professional licensure and certification, are authorized to conduct disciplinary proceedings in
34 accordance with procedural rules adopted by the executive director.

35 II. For the purpose of carrying out disciplinary proceedings, each board, council, or
36 commission is authorized to issue subpoenas for persons, relevant documents and relevant things in
37 accordance with the following conditions:

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1 (a) Subpoenas for persons shall not require compliance in less than 48 hours after
2 receipt of service.

3 (b) Subpoenas for documents and things shall not require compliance in fewer than 15
4 days after receipt of service.

5 (c) Service shall be made on licensees and certified individuals by certified mail to the
6 address on file with the office or by hand and shall not entitle them to witness or mileage fees.

7 (d) Service shall be made on persons who are not licensees or certified individuals in
8 accordance with the procedures and fee schedules of the superior court, and the subpoenas served on
9 them shall be annotated "Fees Guaranteed by the New Hampshire Office of Professional Licensure
10 and Certification."

11 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
12 disposed of, in whole or in part, by written settlement agreement approved by the board and the
13 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
14 before the settlement agreement has been executed, to comment on the terms of the proposed
15 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
16 approval of the settlement agreement.

17 IV. Final board actions having the effect of terminating disciplinary proceedings, whether
18 taken before, during or after the completion of the proceedings, shall be set forth in a written record
19 that shall be available to the public after service upon the licensees or certified individuals involved.

20 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
21 to:

22 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

23 (b) Appoint a board member or other qualified person as presiding officer.

24 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
25 affirmations.

26 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
27 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
28 witnesses during investigations or adjudicatory proceedings.

29 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
30 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
31 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
32 finding after notice and an opportunity for a hearing, the board, council, or commission may take
33 non-disciplinary remedial action:

34 (a) By suspension, limitation, or restriction of a license for a period of time as
35 determined reasonable by the board.

36 (b) By revocation of license.

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1 (c) By requiring the person to submit to the care, treatment, or observation of a
2 physician, counseling service, health care facility, professional assistance program, or any
3 combination thereof which is acceptable to the board.

4 VIII. All proceedings for non-disciplinary remedial action shall be exempt from the
5 provisions of RSA 91-A, except that the board may disclose any final remedial action that affects the
6 status of a license, including any non-disciplinary restrictions imposed.

7 310-A:1-j Hearings, Decisions and Appeals.

8 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
9 council, or commission upon good cause shown. The public docket file for each such proceeding shall
10 be retained in accordance with the retention policy established by the office of professional licensure
11 and certification.

12 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
13 professional qualifications that are not settled shall be heard by the board, council, or commission, or
14 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
15 the board or other designee. Any member of the board, or other person qualified to act as presiding
16 officer and duly designated by the board, shall have the authority to preside at such hearing and to
17 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
18 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall
19 prepare a recommended decision for the board, council, or commission, which shall determine
20 sanctions.

21 III. Except as otherwise provided by RSA 541-A:30, the board, council, or commission shall
22 furnish the respondent and the complainant, if any, at least 15 days' written notice of the date, time
23 and place of a hearing. Such notice shall include an itemization of the issues to be heard, and, in the
24 case of a disciplinary hearing, a statement as to whether the action has been initiated by a written
25 complaint or upon the board's own motion, or both. If a written complaint is involved, the notice
26 shall provide the complainant with a reasonable opportunity to intervene as a party.

27 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
28 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
29 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
30 the parties at prehearing conferences may be conducted off the record.

31 V. The board, council, or commission may dispose of issues or allegations at any time during
32 an investigation or disciplinary proceeding by approving a settlement agreement or issuing a consent
33 order or an order of dismissal for default or failure to state a proper basis for disciplinary action.
34 Disciplinary action taken by the board at any stage of a proceeding, and any dispositive action taken
35 after the issuance of a public hearing notice, shall be reduced to writing and made available to the
36 public. Such decisions shall not be public until they are served upon the parties.

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1 VI. No civil action shall be maintained against the board or any member of the board or its
2 agents or employees, against any organization or its members, or against any other person for or by
3 reason of any statement, report, communication, or testimony to the board or determination by the
4 board in relation to proceedings under this chapter.

5 310-A:1-k Penalties.

6 I. Upon making an affirmative finding that a licensee or certificate holder has committed
7 professional misconduct, boards, which shall include all boards, councils, and commissions within
8 the office of professional licensure and certification, may take disciplinary action in any one or more
9 of the following ways:

10 (a) By reprimand.

11 (b) By suspension of a license or certificate for a period of time as determined reasonable
12 by the board.

13 (c) By revocation of license.

14 (d) By placing the licensee or certificate holder on probationary status. The board may
15 require the person to submit to any of the following:

16 (1) Regular reporting to the board concerning the matters which are the basis of the
17 probation.

18 (2) Continuing professional education until a satisfactory degree of skill has been
19 achieved in those areas which are the basis of probation.

20 (3) Submitting to the care, counseling, or treatment of a physician, counseling
21 service, health care facility, professional assistance program, or any comparable person or facility
22 approved by the board.

23 (4) Practicing under the direct supervision of another licensee for a period of time
24 specified by the board.

25 (e) By assessing administrative fines in amounts established by the board which shall
26 not exceed \$3,000 per offense, or, in the case of continuing offenses, \$300 for each day that the
27 violation continues, whichever is greater.

28 II. The board may issue a non-disciplinary confidential letter of concern to a licensee
29 advising that while there is insufficient evidence to support disciplinary action, the board believes
30 the licensee or certificate holder should modify or eliminate certain practices, and that continuation
31 of the activities which led to the information being submitted to the board may result in action
32 against the licensee's license. This letter shall not be released to the public or any other licensing
33 authority, except that the letter may be used as evidence in subsequent adjudicatory proceedings by
34 the board.

35 III. In the case of sanctions for discipline in another jurisdiction, the decision of the other
36 jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any

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1 of the sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard
2 prior to imposing any sanctions.

3 IV. In cases involving imminent danger to life or health, a board may order suspension of a
4 license or certification pending hearing for a period of no more than 10 business days, unless the
5 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
6 comply with RSA 541-A:30.

7 V. Any person whose license has been suspended or revoked by the board may apply to the
8 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
9 new license or modify the suspension or revocation of the license.

10 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
11 board has found misconduct sufficient to support disciplinary action, the board may require the
12 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
13 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
14 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
15 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
16 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office
17 for any future investigations of complaints and activities that violate this chapter or rules adopted
18 under this chapter.

19 VII. When an investigation of a complaint is determined to be unfounded, the board shall
20 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
21 holder its reason for dismissing the complaint. After six years, the board may destroy all
22 information concerning the investigation, retaining only a record noting that an investigation was
23 conducted and that the board determined the complaint to be unfounded. For the purpose of this
24 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
25 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
26 board to be frivolous.

27 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
28 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
29 professional licensure and certification, shall engage in activity requiring professional licensure, or
30 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
31 does such acts after receiving notice that such person's license to practice has been suspended or
32 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
33 unlawful practice, the board, council, or commission may take action in any one of the following
34 ways:

35 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
36 which shall be enforceable in superior court.

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(b) Impose a fine not to exceed the amount of any gain or economic benefit that the person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each violation of unlicensed or unlawful practice shall be deemed a separate offense.

(c) The attorney general, board, council, or commission, or prosecuting attorney of any county or municipality where the act to unlawful practice takes place may maintain an action to enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available to any board, council, or commission.

310-A:1-l Rehearing; Appeals.

I. Any person who has been refused a license or certification by the board, which shall include all boards, councils, and commissions within the office of professional licensure and certification, or has been disciplined by the board shall have the right to petition for a rehearing within 30 days after the original final decision.

II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to RSA 541.

III. No sanction shall be stayed by the board during an appeal.

3 Contingent Renumbering; SB155. If SB 155 of the 2021 legislative session becomes law then RSA 310-A:1-h through RSA310-A:1-l, as inserted by section 2, Part V of this act, and the internal references therein, shall be renumbered as RSA 310-A:1-j through RSA 310-A:1-n, respectively.

4 Contingent Version; SB 58; Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA 310-A:1-d, II(h)(2) to read as follows:

(2) Such organizational and procedural rules necessary to administer the boards, commissions, councils, and programs in the office of professional licensure and certification, including rules governing the administration of complaints and investigations, **hearings, disciplinary proceedings**, payment processing procedures, and application procedures. The boards shall retain the authority to determine the criteria necessary for licensing applications;

5 Contingency. If SB 58 of the 2021 legislative session becomes law, then Part V, section 1 of this act shall not take effect and Part V, section 4 shall take effect January 1, 2022. If SB 58 does not become law then Part V, section 1 of this act shall take effect January 1, 2022 and Part V, section 4 shall not take effect.

6 Effective Date.

I. Part V, sections 1 and 4 of this act shall take effect as provided in Part V, section 5 of this act.

II. The remainder of this Part shall take effect January 1, 2022.

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(c) Being deemed by the board to be of good professional character.

III. No salon or barbershop shall at any one time have more than one apprentice per licensed professional, except as follows:

(a) Each licensed barber may have up to 2 apprentices for barbering.

(b) Each licensed master barber may have up to 2 apprentices for barbering, or one apprentice master barber and one apprentice barber.

IV. Upon completing the number of hours specified in the board's apprentice rules, an apprentice shall be eligible to apply to the board for ~~[license]~~ **certification**.

V. Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate shall not be required to provide a social security number as a prerequisite for obtaining a certificate.

4 Expiration and Renewal of Licenses and Certificates. Amend RSA 313-A:20 to read as follows:

313-A:20 Expiration and Renewal of Licenses ***and Certificates***. Each barber, master barber, barber instructor, ~~[apprentice,]~~ barbershop, barber school, esthetician, esthetics instructor, esthetics school, esthetics salon, manicurist, ~~[apprentice,]~~ beauty salon, or manicuring salon license issued under this chapter, ***and any apprentice certificate issued under RSA 313-A:24***, shall expire on the last day of the birth month of the licensee ***or certificate holder*** in the odd year next succeeding its date of issuance. Each cosmetologist, cosmetology instructor, or cosmetology school license issued under this chapter shall expire on the last day of the birth month of the licensee in the even year next succeeding its date of issuance. Any personal license ***or apprentice certificate*** which has expired may be renewed within 6 months by payment of the renewal fee and a late fee established by the board. After 6 months and within 5 years, a personal license ***or apprentice certificate*** may be renewed by paying the renewal fee and a late fee established by the board. Any school or shop license which has expired may be renewed upon payment of the renewal fee plus a late fee established by the board.

5 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

PART IX

Relative to telemedicine provided by out-of-state psychologists.

1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted to read as follows:

329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists, include those psychology services that utilize electronic means, including audio, video, or other electronic media, to engage in visual or virtual presence in contemporaneous time. A New Hampshire tele-pass license shall be required for provision of such care to people in New Hampshire. Contacts that are exempt from this requirement are:

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1 (a) Persons exempted by 329-B:28.

2 (b) Screenings for inclusion in voluntary research projects that have been properly
3 approved by a New Hampshire based institutional review board.

4 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
5 person within the state of New Hampshire without acquiring a tele-pass psychology license.

6 (d) Persons exempted by RSA 329-D.

7 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
8 provide telepsychology services to a person in New Hampshire pursuant to RSA 329-D, or providing
9 that the psychologist:

10 (a) Is licensed in one of the jurisdictions in the United States or Canada;

11 (b) Is in good standing in all license jurisdictions in the United States and Canada;

12 (c) Has satisfied conditions determined in rules adopted by the board;

13 and

14 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license in
15 accordance with board rules and payment of license fees with effective dates that cover the dates of
16 services provided.

17 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
18 conditions stipulated by the board that the licensee shall:

19 (a) Conform to all New Hampshire statutes and rules.

20 (b) Agree that electronic attendance for appearances shall be deemed adequate for
21 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
22 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
23 licensee.

24 (c) Understand that false statements or failure to comply with official requests and
25 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

26 (d) Understand that all conditions of tele-pass psychology license to practice and
27 enforcement shall be pursuant to New Hampshire law.

28 (e) Grant the New Hampshire board of psychologists and its investigators authority to
29 disclose to law enforcement and related regulatory authorities, at their discretion, information
30 including but not limited to status of application, actions and information pertinent to investigations
31 and enforcement of the laws and rules pertaining to the licensee's conduct.

32 (f) Not conduct face-to-face in-person psychological services in New Hampshire.

33 IV. The board shall adopt rules pursuant to RSA 541-A for:

34 (a) The application procedure for a New Hampshire tele-pass psychology license;

35 (b) Additional requirements for a psychologist licensed in another state of Canada to
36 acquire a tele-pass psychology license, including attestations;

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1 (c) The standards of care for telemedicine practice of psychology and their enforcement;
2 and

3 (d) Procedures for investigation and discipline pursuant to all means authorized in this
4 chapter, including but not limited to suspension or revocation of a tele-pass psychology license.

5 V. Persons who have been granted emergency licenses to practice psychology under the
6 Covid 19 emergency pursuant to the Governor's Emergency Order #29 shall be granted a tele-pass
7 license upon application to the board.

8 2 Effective Date. Part IX of this act shall take effect upon its passage.

9
10 **PART X**

11 Relative to certified food protection managers.

12 1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
13 by inserting after RSA 143-A:11 the following new section:

14 143-A:11-a Certified Food Protection Manager.

15 I.(a) Each food service establishment licensed by the state under RSA 143-A:6 shall have a
16 person in charge and present during all hours of operation trained as a certified food protection
17 manager by a program approved by the Conference for Food Protection or other equivalent industry
18 standards program.

19 (b) The requirement in subparagraph (a) shall not apply under these conditions:

20 (1) Food establishments having at least one certified food protection manager on
21 staff shall not be required to have the certified food protection manager present when no food
22 preparation is taking place;

23 (2) Food establishments having at least one certified food protection manager on
24 staff shall not be required to have the certified food protection manager present when food
25 preparation is limited to reheating commercially prepared food or ready to eat food; or

26 (3) Food establishments having 5 food employees or less on duty are required to have
27 only one certified food protection manager on staff who is available, although not required to be
28 present, during all hours of operation.

29 II. This section shall not apply to any food service establishment exempt from licensure or
30 inspection under RSA 143-A:5.

31 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
32 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
33 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
34 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
35 those serving packaged food and non-potentially hazardous unwrapped foods only;
36 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;

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1 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
2 poultry that is processed in a USDA-inspected plant; homestead food operations.

3 2 Effective Date. Part X of this act shall take effect upon its passage.

4
5 **PART XI**

6 Establishing minimum qualifications for certification as a child care associate teacher.

7 1 New Subparagraph; Child Day Care Licensing; Rulemaking; Continuing Education
8 Requirements and Associate Teacher Qualifications. Amend RSA 170-E:11, I by inserting after
9 subparagraph (m) the following new subparagraph:

10 (n) The following qualification for certification as an associate teacher: a minimum of
11 1,000 hours of supervised child care experience in a licensed child care program and 30 hours of
12 training in child growth and development, the latter of which may be documented life experience.
13 Documented life experience in lieu of training in child growth and development shall include
14 experience with the same age children the associate teacher supervises, such as a family child care
15 provider; service as a foster parent; work as a school teacher; work as a camp counselor; and
16 experience as a group leader for children in sports or other activities, such as scouts or little league,
17 or closely related experience.

18 2 Effective Date. Part XI of this act shall take effect 60 days after its passage.

Approved: August 10, 2021

Effective Date:

Pt. I eff. October 9, 2021

Pt. II eff. October 9, 2021

Pt. III eff. August 10, 2021

Pt. IV eff July 1, 2021

Pt. V eff: I. Sections 1&2 eff as provided in Pt V, sec. 5

II. Rem. eff January 1, 2022

Pt. VI eff. August 10, 2021

Pt. VII eff. October 9, 2021

Pt. VIII eff. October 9, 2021

Pt. IX eff. August 10, 2021

Pt. X eff. August 10, 2021

Pt. XI eff. October 9, 2021

